



Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 45

Hearing Date: January 25, 2001

Committee On: Revenue

Introducers: (Landis)

Title: Change and eliminate procedures relating to appeals heard by the Tax Equalization and Review Commission

Roll Call Vote – Final Committee Action:

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

8	Yes	Senators Coordsen, Dierks, Hartnett, Janssen, Landis, Raikes, Redfield and Wickersham
0	No	
0	Present, not voting	
0	Absent	

Proponents:

Senator David Landis
Laurice Margheim
John Jordison
Janet Edwards
Ron Sedlacek
William E. Peters

Representing:

Introducer
Himself
Nebraska Tax Research Council
Tax Equalization and Review Commission
Nebraska Chamber of Commerce & Industry
Burlington Northern

Opponents:

Renee Williams
Scott Sidwell
Mike Thew
Roger Morrissey

Representing:

Herself
Nebraska Association of County Officials
Lancaster County
Douglas County Assessor

Neutral:

Jim Cunningham

Representing:

Nebraska Catholic Conference

Summary of purpose and/or changes:

LB 45 would have amended section 77-5016 to provide a new standard of proof to be used by the TERC in deciding appeals brought before it. Currently, the burden as stated in section 77-

5016 is that the decision of the county board of equalization or PTA should be upheld unless it is unreasonable or arbitrary. However, older case law interpreting section 77-1511 states that the decision must be upheld unless the decision appealed is unreasonable or arbitrary. Even if it is, the decision is still to be upheld unless the taxpayer establishes by clear and convincing evidence that the value is grossly excessive and is the result of a systematic exercise of intentional will or failure of plain duty, not mere errors in judgement. Section 77-1511 would have been repealed outright by LB 45.

Under LB 45, a decision of the county board of equalization was to be upheld unless the appellant established by a preponderance of the evidence that the value exceeds the 80 percent or 100 percent of actual value standard or that it is not equalized with other property. A decision of the PTA was to be upheld unless the appellant established by a preponderance of the evidence that the decision violates the state Constitution or a statute or rule. Any appeal from an AHLVB was to be upheld unless the decision was unlawful, arbitrary or capricious. Finally, in an appeal of a ruling from the DMV establishing the manufacturer's suggested retail price, the appellant had the burden of proving it incorrect.

The bill also allowed the Commission to tax the costs of any appeal as it sees fit.

Explanation of amendments, if any:

Senator William R. Wickersham, Chairperson